HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 680 of 2007

Between:

Northern Power Distribution Company of A.P. Ltd.,
Rep. by its Managing Director, Warangal & others

… Appellants

And

A. Naga Raju & others

… Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri G. Vidya Sagar

Counsel for the respondents : Shri M.V. Rama Rao

August 28, 2007

Per G.S. SINGHVI, CJ

This is an appeal for setting aside order dated 05.07.2007 passed by the learned Single Judge in W.P.M.P. No. 15105 of 2007 in Writ Petition No.7497 of 2007.

We have heard Shri G. Vidya Sagar, learned counsel for the appellants, Shri M.V. Rama Rao, learned counsel for the respondents and perused the record.

In the main petition filed by them, the appellants have made the following substantive prayers:

> " It is, therefore, prayed that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly in the nature of Writ of Mandamus declaring the action of the

respondents is fixing E.P.F. number as criteria for recorded evidence of working in the notification issued for recruitment of Contract Junior Lineman and hereby not issuing call letters to the petitioners and not considering their case for selection as illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India and pass such other orders as are necessary in the interests of justice.

It is further prayed that this Hon'ble Court may be pleased to direct the respondents to issue call letters and permit the petitioners to undergo selection process for the post of Contract Junior Lineman, pending disposal of the above writ petition, and pass such other orders as are necessary in the interests of justice."

In the W.P.M.P., the petitioners prayed for issue of an interim mandamus to the non-petitioners to consider their cases for appointment as Senior Lineman on contract basis without insisting on E.P.F. number.

The learned Single Judge disposed of the W.P.M.P. in the following terms:

" The very Writ Petition has been filed seeking a Mandamus declaring the action of the respondents in fixing E.P.F. Number as criteria for recorded evidence of working in the notification issued for recruitment to the post of Contract Junior Lineman as arbitrary and illegal.

Now, learned counsel for the petitioners states that in view of the undertaking given by the learned counsel for the respondents earlier, petitioners were subjected to interview, but they have not been given any appointment orders, as of now. However, learned counsel for the respondents, on instructions, submits that since log books and E.P.F. Numbers are not furnished, petitioners are not entitled for appointment, even if they are interviewed. Whereas, learned counsel for the petitioners states that the criteria of entry of the name in the log book is only for sub-stations and not for operation and maintenance side. This is also reflected in the notification issued by the authorities.

Insofar as E.P.F. number is concerned, the Unit Officer i.e. Divisional Engineer (Electrical), Operation, Warangal, himself gave a reply to the audit objection as to non-compliance with the

> statutory provision in respect of contract labour engaged for Operation and Maintenance works in the office of Divisional Engineer, Operation, Warangal. It is stated that in the letter dated 01.06.2007 that the contribution towards E.P.F. was not made as the provision for same was not covered in permission letters (Contracts). Therefore, prima facie I am of the opinion that insisting upon the mentioning of the names of the petitioners in the log books since they are not working in the sub-stations and insisting upon E.P.F. numbers in view of the said letter of the Divisional Engineer, Operation, Warangal, is not warranted. Therefore, the respondents are directed to consider for issuance of appointments to the petitioners for the post of Contract Junior Lineman, without insisting upon log books as well as E.P.F. number, if they are otherwise eligible."

In our opinion, the adjudication of the W.P.M.P. filed by the writ petitioners in the manner indicated above is legally unsustainable because the direction given by the learned Single Judge tantamounts to final adjudication of the writ petition. If the order under challenge is implemented and the writ petitioners are given appointments, nothing will survive for adjudication in the main case.

Hence the appeal is allowed. The order under challenge is set aside. However, keeping in view the nature of relief sought in the main petition, we direct the appellants herein to file their counter affidavit within a period of seven days from today. We further direct that the main petition be listed before the concerned Bench on 10.09.2007. Learned counsel for the writ petitioners is given liberty to request for out of turn hearing.

While disposing of the appeal in the manner indicated above, we direct that the appointments made hereinafter shall remain subject to final adjudication of the writ petition.

As a sequel to disposal of the writ appeal, W.A.M.P.No.1369 of 2007 filed by the appellants for interim relief is dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

August 28, 2007
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